

CALENDAR ITEM

C47

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11/21/06
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**AUTHORIZATION BY THE CALIFORNIA STATE LANDS COMMISSION, IN ITS
CAPACITY AS THE KAPILOFF LAND BANK TRUSTEE, FOR EXECUTIVE OFFICER
TO EXECUTE AGREEMENT FOR MONITORING, REPORTING, AND REMEDIATING
BIOLOGICAL
AND PHYSICAL ASPECTS OF THE
BOLSA CHICA LOWLANDS RESTORATION PROJECT**

BACKGROUND

The State Lands Commission acquired 880 acres of restorable wetlands at Bolsa Chica in 1997 as part of a wetlands mitigation of adverse impacts of fill at the ports of Long Beach and Los Angeles. Various aspects of this Project have been before the Commission over the last nine years.

Subsequent to the acquisition, the Commission along with seven other state and federal agencies undertook the planning, design, environmental review and construction of the wetlands restoration. Including the acquisition, the Project cost will exceed \$148 million. Most of the funding has come from the ports along with \$20 million in Proposition 40 and 50 grant funds through the Wildlife Conservation Board and California Coastal Conservancy. Restoration construction began in October 2004 and was recently completed.

DISCUSSION

As part of approval of the restoration, the California Coastal Commission and Army Corps of Engineers imposed conditions requiring monitoring and reporting of restored wetlands for at least ten years. In addition, if necessary, the inlet channel and flood shoal are to be dredged and the material placed on the adjoining state beach. Results of the monitoring are to be reported to the Coastal Commission, Corps of Engineers and other agencies.

Monitoring plans and follow up plans were prepared by the U. S. Fish & Wildlife Service. These form the basis for contract work. They provide for extensive sampling of the beach and inlet depths, water quality, and biological resources as well as completion of reports on the results. Staff believes it is preferable to contract with one firm to

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undertake this work rather than have several smaller contracts with specialized firms. The proposed contract is for three years with an option to renew for up to ten years. Funds to pay for monitoring work are available in the operation and maintenance account of the Bolsa Chica Project funds in the Kapiloff Land Bank in the state treasury.

Statements of Interest were solicited from a listing of pre-qualified environmental consulting and engineering firms established pursuant to Commission regulations. Additional firms were allowed to pre-qualify in conjunction with the response to this solicitation. An evaluation committee was appointed by the Executive Officer consisting of staff from the US Fish and Wildlife Service, National Marine Fisheries Service, US Army Corps of Engineers, California Department of Fish and Game and the Commission. Statements of Interest were received from three firms. The evaluation committee reviewed the submissions and interviewed each of the project teams offered by the firms. The firm of Merkel & Associates was ranked highest of those interviewed and subsequent cost negotiations resulted in a proposed contract not to exceed \$1,420,704 over a three year period with an option to renew annually up to a total of ten years.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code Section 6106 (Delegation to execute written instruments)
- B. State Contracts Manual Section 11.00 (A & E method)
- C. Public Contract Code Section 6106
- D. Government Code Section 4526
- E. California Administrative Code Title 2 Article 13 Section 2980.0 - 2990.0

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. FIND THAT THE COMMISSION IS ACTING IN ITS CAPACITY AS LAND BANK TRUSTEE UNDER THE KAPILOFF LAND BANK ACT, PUBLIC RESOURCES CODE SECTIONS 8600 ET SEQ.
3. AS TRUSTEE OF THE KAPILOFF LAND BANK FUND, AUTHORIZE EXPENDITURE FROM THE FUND FOR THE PURPOSE OF MONITORING, REPORTING AND REMEDIATING BIOLOGICAL AND PHYSICAL ASPECTS OF THE BOLSA CHICA LOWLANDS RESTORATION PROJECT USING THE MITIGATION FUNDS HELD EXPRESSLY IN TRUST FOR THE BOLSA CHICA LOWLANDS RESTORATION PROJECT, AND SUCH OTHER FUNDS AS MAY FROM TIME TO TIME BECOME AVAILABLE EXPRESSLY FOR THE PROJECT.
4. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE AN AGREEMENT WITH MERKEL AND ASSOCIATES FOR MONITORING, REPORTING AND REMEDIATING BIOLOGICAL AND PHYSICAL ASPECTS OF THE BOLSA CHICA LOWLANDS RESTORATION PROJECT.